



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Sentrix Pharmacy & Discount LLC

**Respondent Name**

Travelers Casualty Ins Co

**MFDR Tracking Number**

M4-16-2517-01

**Carrier's Austin Representative**

Box Number 5

**MFDR Date Received**

April 20, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The claim(s) in question were properly submitted pursuant to the Pharmaceutical Benefits rules codified in 28 Texas Administrative Code (TAC) §134.500 through §134.550."

**Amount in Dispute:** \$12,607.46

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The Provider supplied a topical compound and billed the Carrier. The Carrier reviewed the medical bill and denied reimbursement as the services required preauthorization which was not obtained prior to the services being rendered."

**Response Submitted by:** Travelers

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 16, 2015	Fluticasone Propionate 1%, Methyl Salicylate 3%, Pracisil, Naproxen 5%, Propylene, Gabapentin 15%	\$12,607.46	\$12,607.46

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §137.100 sets out the treatment guidelines for health care providers.
- 28 Texas Administrative Code §134.530 sets out the guidelines for pharmacy services not subject to a certified network.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 197 – Precertification/authorization/notification absent
  - 18 – Duplicative service – a payment or denial has already been recommended for this service.

## Issues

1. Was preauthorization required?
2. Is the carrier's position(s) supported?
3. What is the applicable rule that pertains to reimbursement?
4. Based on applicable fee schedule is payment due?

## Findings

1. The insurance carrier denied disputed services with claim adjustment reason code 197 – "Precertification/authorization/notification absent." 28 Texas Administrative Code §137.100(a) requires that,

Health care providers shall provide treatment in accordance with the current edition of the *Official Disability Guidelines - Treatment in Workers' Comp*, excluding the return to work pathways, (ODG), published by Work Loss Data Institute (Division treatment guidelines), unless the treatment(s) or service(s) require(s) preauthorization in accordance with §134.600 of this title (relating to Preauthorization, Concurrent Review and Voluntary Certification of Health Care) or §137.300 of this title (relating to Required Treatment Planning).

Review of the 2015 ODG Guidelines finds the following:

### Topical analgesics

*Recommended as an option as indicated below. Largely experimental in use with few randomized controlled trials to determine efficacy or safety. Primarily recommended for neuropathic pain when trials of antidepressants and anticonvulsants have failed. (Namaka, 2004) These agents are applied locally to painful areas with advantages that include lack of systemic side effects, absence of drug interactions, and no need to titrate. (Colombo, 2006) Many agents are compounded as monotherapy or in combination for pain control (including NSAIDs, opioids, capsaicin, local anesthetics, antidepressants, glutamate receptor antagonists, α-adrenergic receptor agonist, adenosine, cannabinoids, cholinergic receptor agonists, γ agonists, prostanoids, bradykinin, adenosine triphosphate, biogenic amines, and nerve growth factor). (Argoff, 2006) There is little to no research to support the use of many these agents. Any compounded product that contains at least one drug (or drug class) that is not recommended is not recommended. The use of these compounded agents requires knowledge of the specific analgesic effect of each agent and how it will be useful for the specific therapeutic goal required. Custom compounding and dispensing of combinations of medicines that have never been studied is not recommended, as there is no evidence to support their use and there is potential for harm. [Note: Topical analgesics work locally underneath the skin where they are applied. These do not include transdermal analgesics that are systemic agents entering the body through a transdermal means.*

Gabapentin: Not recommended. There is no peer-reviewed literature to support use.

### 28 Texas Administrative Code §134.530(d)

Treatment guidelines. Except as provided by this subsection, the prescribing of drugs shall be in accordance with §137.100 of this title (relating to Treatment Guidelines), the division's adopted treatment guidelines.

(1) Prescription and nonprescription drugs included in the division's closed formulary and recommended by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization.

(2) Prescription and nonprescription drugs included in the division's closed formulary ***that exceed or are not addressed by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization.***

(3) Drugs included in the closed formulary that are prescribed and dispensed without preauthorization are subject to retrospective review of medical necessity and reasonableness of health care by the insurance carrier in accordance with subsection (g) of this section.

The medications in dispute are; Propylene, Gabapentin 15%, Fluticasone Propionate 1%, Methyl Salicylate 3%, Pracasil, Naproxen. Even though the dispensed medication included Gabapentin which is not recommended by the treatment guidelines, pursuant to 134.530(d)(2) prior authorization was not required. The carrier's denial is not supported.

2. The respondent states in their position statement, "This Request for medical Fee Dispute should be dismissed in accordance with Rule 133.307(f)(3)(A) as the Provider has not filed a request for reconsideration as required by Rule 133.250." Review of the submitted documentation finds a request for reconsideration from the health care providers representative "Vividus" dated February 17, 2016. The respondent's position is not supported. The respondent also states in their position statement, "The Provider has submitted no scientific or clinical documentation regarding the efficacy of the treatment or provided evidence that this compound has become broadly accepted as the prevailing standard of care. As this compound is therefore investigation or experimental as defined by Texas labor Code 414.014(a), it required preauthorization under Rule §134.503(b)(1)(C)." 28 Texas Administrative Code §134.530(d)(3) states,

Drugs included in the closed formulary that are prescribed and dispensed without preauthorization are subject to retrospective review of medical necessity and reasonableness of health care by the insurance carrier in accordance with subsection (g) of this section.

No evidence of a retrospective review was found to support the respondent's statement. Therefore, the requirements of Rule 134.503(d)(3) were not met. The respondents' position is not supported.

3. 28 Texas Administrative Code §134.503(c)(1)states,

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

(A) Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  dispensing fee per prescription = reimbursement amount;

(C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection

The total allowable reimbursement will be calculated based on the submitted NDC and reported units as follows:

Date of Service	Prescribed Medication	Units	Amount billed	MAR (AWP) x units x 1.25 + \$4.00
December 16, 2015	Propylene	12 bottles	\$2.53	$0.19000 \times 12 \times 1.25 + \$4.00 = \$6.85$
December 16, 2015	Gabapentin 15%	36 bottles	\$2,154.61	$59.85000 \times 36 \times 1.25 + \$4.00 = \$2,697.25$
December 16, 2015	Fluticasone Propionate 1%	2 bottles	\$8,278.06	$3449.35520 \times 2 \times 1.25 + \$4.00 = \$8,627.39$
December 16, 2015	Methyl Salicylate		0.00	No amount in dispute
December 16, 2015	Pracasil	170 bottles	\$2,167.22	$12.72000 \times 170 \times 1.25 + \$4.00 = \$2,361.02$

December 16, 2015	Naproxen 5%	12 bottles	\$5.04	$3.99000 \times 12 \times 1.25 + \$4.00 = \$63.85$
				Total \$13,756.36

4. The total allowable based on the submitted claims' NDC numbers and units dispensed, is \$13,756.36. The requestor is seeking \$12,607.46. Pursuant to applicable fee guidelines this amount is allowed.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$12,607.46.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$12,607.46 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

### **Authorized Signature**

Signature	Medical Fee Dispute Resolution Officer	May , 2016 Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**